

**59-5-114 Limitation of actions.**

- (1)
- (a) Except as provided in Subsections (1)(c) through (f), the commission shall assess the amount of taxes imposed under this part, and any penalties and interest, within six years after a taxpayer files a return.
  - (b) Except as provided in Subsections (1)(c) through (f), if the commission does not make an assessment under Subsection (1)(a) within six years, the commission may not commence a proceeding for the collection of the taxes after the expiration of the six-year period.
  - (c) Notwithstanding Subsections (1)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:
    - (i) fraud; or
    - (ii) failure to file a return.
  - (d) Notwithstanding Subsections (1)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this part if:
    - (i) the six-year period under this Subsection (1) has not expired; and
    - (ii) the commission and the taxpayer sign a written agreement:
      - (A) authorizing the extension; and
      - (B) providing for the length of the extension.
  - (e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (1)(f) if:
    - (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
    - (ii) the six-year period under this Subsection (1) expires before the commission completes the audit.
  - (f) An assessment under Subsection (1)(e) shall be:
    - (i) for the time period for which the commission could not make an assessment because of the expiration of the six-year period; and
    - (ii) in an amount equal to the difference between:
      - (A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (1)(f)(i); and
      - (B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (1)(f)(i).
- (2)
- (a) Except as provided in Subsection (2)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within six years of the date of overpayment.
  - (b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:
    - (i) the six-year period under Subsection (2)(a) has not expired; and
    - (ii) the commission and the taxpayer sign a written agreement:
      - (A) authorizing the extension; and
      - (B) providing for the length of the extension.

Amended by Chapter 299, 1998 General Session